

Encouraging Public Notification in Site Remediation

Office of Community Relations

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The New Jersey Department of Environmental Protection is proposing to expand the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) to enhance public notification of remediation work and to offer a process to require more direct communication when sites are of high local concern.

The proposed rules will be in the New Jersey Register in August 2006 with expected adoption in the fall. The following interim guidance is offered to those who wish to enhance outreach in communities where remediation work is taking place.

The NJDEP Office of Community Relations has developed this guidance with several examples of communications, which can be tailored to suit the needs of the situation.

This guidance should not in any way be construed as an alternative to the state statutes guiding remediation in New Jersey. At any site, the party responsible for conducting the remediation must do so pursuant to New Jersey's Technical Requirements for Site Remediation (NJAC 7:26E).

Early, two-way communication with residents, business owners and local officials affected by remediation activities can be critical to a successful investigation and cleanup. This may be especially true when future uses include public recreation or housing.

With an effective outreach strategy, the parties responsible for the remediation can anticipate the needs and concerns of the community and deal with them proactively. Effective outreach creates a forum to share information and raise and address community concerns about future use early in the remediation process. This effort can save time and money and build critical community support.

Complying with NJDEP's Technical Requirements for Remediation (N.J.A.C. 7:26E) ensures exposure pathways are controlled or eliminated, but exposure risk during the remediation can still be a local concern. Whether these concerns are scientifically based or perceived, they pose a real obstacle to progress if not addressed. Exploring and addressing these concerns early in the process can aid in the remediating party's decision-making process during planning, rather than throughout the remediation or reuse.

For this reason, we urge you to recognize 'sensitive populations' and inform the NJDEP, the municipal clerk, and the local health official before

you initiate any field activities associated with the **remedial investigation** or a **single phase remediation**.

We suggest that you identify the following sensitive populations that are located within 200 feet of the site:

- Residents
- Schools and childcare centers
- Potable wells
- Public parks and playgrounds
- Surface water bodies
- Tier 1 well-head protection areas
- Environmental Justice Petition Neighborhood (for more information, call 609-292-2885 or visit the NJEP Environmental Justice website at www.nj.gov/dep/ej)

We often hear from the public that they do not know what is taking place on the property 'next door' or 'across the street.' Their genuine concerns about future use and exposure during remediation need to be addressed in order for the remediation process to go forward smoothly. This guidance encourages the remediating party to notify nearby property owners and tenants and the community living and working nearby prior to any field activities associated with **remedial investigation** or a **single phase remediation**, either by the posting of appropriate signage or by direct notice.

Signs: Notification is frequently done through site signage. This is a sensitive issue that requires thorough review with the local municipal officials to ensure that the signage is done in a way that is consistent with both existing local ordinances and accepted local practices regarding signage. Throughout the country, signs are being used to good effect as means to both announce a new use and as a source of contact information for whom to call with questions regarding on-site activities.

The party conducting the remediation should ensure that the sign is legible and posted at a location that is clearly visible to the public. The sign should be at least two feet by three feet and should be maintained throughout the period of remediation. Signs, like letters can be modified to fit your situation and can be used to advertise redevelopment projects or other relevant site information. However, at a minimum, the sign should include the following wording and information:

- "Environmental Investigation/Cleanup In Progress At This Site"
- "For Further Information Contact. . . " include telephone numbers for the person conducting the remediation and the NJDEP Office of Community Relations (1-800-253-5647)

- The date the sign is posted

Letters: Municipalities across the state currently follow a practice of notifying residents living within two hundred feet of a given proposed action (commonly a zoning variance). Notification letters advise the residents of the proposed action and give them an opportunity to hear more on the matter or to receive more information.

NJDEP strongly encourages parties interested in a proactive approach to send letters advising members of the community of remedial investigation activities. Concerned community members include the owners and tenants of properties located within 200 feet of the area(s) of concern, Administrators of schools and childcare centers, lead person in an EJ Petition area, as well as, municipal clerks, and designated local health officials. A model letter, which contains the recommended minimum amount of information is attached for your use [Attachment 1. Remedial Investigation/Remedial Action Notification Letter]. NJDEP encourages you to expand the language in the model letter to fit your situation. For example, the notification letter can include information about the intended reuse of the property, timeframes and/or hours of site activities.

Action Stages

When you reach the **remedial action** phase of a cleanup activity, there may likely be additional concerns in the community: established staging areas, increased truck traffic, and general activity creating dust, odors or noise. We recommend a second outreach at this stage of the remedial process.

At this point you may want to again notify neighboring property owners and tenants and advise the designated Health Officer [local or county] and municipal clerk of your pending activities and timelines. A model letter that is attached for your use outlines the minimum amount of information that should be included and can be modified to best suit the community's needs. [Attachment 1: Remedial Investigation/Remedial Action Notification Letter]

Long-term Remediation

If the cleanup is a multi-year remediation, the person responsible for conducting the remediation is encouraged to provide regular notifications to interested parties (e.g., owners and tenants that are located within 200 feet of the area(s) of concern, the parties concerned with sensitive populations, municipal clerks, and designated local health officials).

Notification should occur every two years after the initiation of the remedial action until a No Further Action is issued by the Department.

Sites with Off-Site Impacts

When off-site impacts have been identified, NJDEP encourages the remediating party to prepare and distribute a Fact Sheet to property owners and tenants located within 200 feet of the site boundary. The party conducting the remediation should ensure that, at a minimum, the Fact Sheet includes the following information:

- A description of the commercial and industrial history of the site based on the information gathered during the preliminary assessment
- A description of the contamination identifying the contaminants of concern, the media affected, contaminant concentrations, applicable cleanup criteria, the extent of the contamination, the date that the contamination was identified, and the source of the contamination
- A description of the action performed to minimize the impact to the public
- The date the Fact Sheet was prepared
- Name, number and email address for the person conducting the remediation and the NJDEP Office of Community Relations (1-800-253-5647).

In addition, the remediating party should consider posting a copy of the Fact Sheet as a display advertisement in a daily or weekly newspaper of general circulation in the vicinity of the contaminated site (e.g., not in the legal notices).

These examples illustrate methods for you to give concerned community members accurate information, rather than leaving them to speculate about what is being done and how well it is being managed.

This level of community outreach may not be necessary when the contamination has only affected one adjoining property and the affected contaminated media is limited to only soil. In these instances, we recommend notifying the affected property owner or tenant of the nature and extent of contamination, in writing.

Cases with High Levels of Community Concern

There will be instances where the site is a significant source of local concern for any number of reasons. In these cases, more communication is better. In cases where there is substantial public interest, enhanced public notice may be achieved using the following methods:

- Publicize and host a public information session or public meeting
- Publish a notice containing basic information about the site in the local paper of record [Attachment 2: Sample Newspaper Notice]
- Establish a local information repository

In addition, NJDEP encourages you to establish an electronic repository at an online website. These websites can also be linked to municipal websites to ensure easy access for residents. In an era of ever-expanding use of electronic communications, we also recommend developing an e-mail distribution system to provide the community with updates and critical information. This would entail developing a system (through your website or company email address) where interested citizens could register to be notified when you have news or information to share.

Assistance from NJDEP Office of Community Relations

The Office of Community Relations can post links through our website, which is fast becoming a familiar starting point for citizens interested in learning more about remediation activities in their communities. If interested, please visit the website at www.nj.gov/dep/srp/community and look at the "Site Highlights" for illustrations of links.

It should be noted that in neighborhoods with non-English speaking residents, the party conducting the remediation may need to provide the notification described above in a language other than English.

Attachments

1. Sample Remedial Investigation/Remedial Action Notification Letter

Dear **<concerned party>**,

We, **<party responsible for remediation>**, have entered into a voluntary agreement with the New Jersey Department of Environmental Protection to investigate and/or remediate **<site name and address, tax block & lot, and applicable NJDEP Identification Number>**.

The **<investigation/remediation>** is prompted by the presence of **<contaminants identified, including a description of the type of contaminants>**. The following **<affected environmental media>** were impacted by previous activities at this site and will be **<investigated/remediated>** as part of this effort. The following describes the actions we will be undertaking during this phase of the remediation. **<description of remedial activities>**

If at any time, you have any questions regarding our activities, you can contact several parties who will be able to assist you. First, you can contact us directly at **<name and number>**. You can also contact the NJDEP Office of Community Relations at 609-984-3081.

We hope this will move smoothly and in the end return this property to valuable use both for the community and for the neighborhood. We appreciate your concerns and will make every effort to address them in a timely manner, to make the process as efficient as possible.

Sincerely yours,

<personal representative of the remediating party>

2. Sample Newspaper Notice

The **<remediating party>** announces the intent to continue **<investigation/remediation>** of **<site name>** in **<municipality>**. Previous investigation has revealed the presence of **<type of contaminant>** in **<affected media>**. This investigation is being conducted in accordance with all applicable environmental regulations. Please address your questions or concerns to **<contact name and phone number for remediating party>** or the NJDEP Office of Community Relations at 609-984-3081.